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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,989	11/12/2003	Keith D. Foote	71486-0061	2988
20915	7590	05/02/2007		
MCGARRY BAIR PC 32 Market Ave. SW SUITE 500 GRAND RAPIDS, MI 49503			EXAMINER SHAHER, RICKY D	
			ART UNIT	PAPER NUMBER
			2872	
			MAIL DATE	DELIVERY MODE
			05/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/605,989	FOOTE ET AL.	
	Examiner	Art Unit	
	Ricky D. Shafer	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 6,7,24 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,8-23 and 26-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments filed 02/12/2007 have been fully considered but they are not persuasive.

Applicant argues the reference to Polzer et al ('778) does not teach the reflective element assembly or the mounting bracket being secured to either the mounting bracket or the reflective element assembly without rotation of the reflective element assembly relative to the mounting bracket.

The examiner disagrees and is of the opinion that the reference to Polzer et al ('778) clearly teaches the use of an interlocking fastener assembly [(3.4, 3.5), and the fasteners (i.e., screws, bolts, rivets...etc. of element 5)] for securing a reflective mirror assembly (9, 9.9) to a mounting bracket (3) without rotation of the reflective element assembly relative to the mounting bracket. See Fig. 2.

In addition, the examiner is of the opinion that the use of the language "without rotation...bracket" is directed toward intended use, in view of the fact that the specification, as originally filed, does not provide any support/description of any such details, and does not serve as a basis for patentably as well established and set out in Patent law due to the fact that the claimed invention does not result in a structural difference between the claimed invention and the prior art in such a manner in order to patentably distinguish the claimed invention from the prior art. Note: If the prior art structure is capable of performing the intended use, then it meets the claim. See In re Casey, 152 USPQ 235 (CCPA 1967); In re Otto, 136 USPQ 458, 459 (CCPA 1963) and Ex Parte Masham 2 USPQ 2d 1647 (1987).

Applicant argues the reference to Assinder ('255) does not teach an array of interlocking fastener elements.

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The examiner disagrees and is of the opinion that the reference to Assinder ('255) clearly teaches the use of an array an interlocking fastener assembly [(18, 22, 30), (16, 24)], see figures 1, 4 and 5, wherein figures 4 and 5 clearly illustrates, for example, at least one row and two columns. Thus, Assinder ('255) clearly teaches/defines an array.

In response to appellant's general argument that there is no suggestion or motivation to combine, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596 (FED. CIR. 1988) and In re Jones, 958 F.2d 347, 21 U.S.P.Q. 2d 1941 (FED. CIR. 1992). In this case, any one of the exemplary references to Manzoni (164), Ozaki ('408) or Toshiaki et al ('214) already made of record, each teach it is well known to use a tilt actuator in the same field of endeavor for the purpose of moving/adjusting a mirror about two perpendicular axes (vertically and horizontally) which would obviously convey to one of ordinary skill in the art the general knowledge of the provisions of adjustability of a mirror to selectively view a rear view field of interest. See In re Stevens, 101 USPQ 284 (CCPA 1954).

Thus, it certainly would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the electric mirror positioning motor unit (20) of Brechbill et al to include an electric mirror positioning motor unit (tilt actuator) capable of vertically and horizontally tilting of the reflective element assembly, as is well known in the mirror art, as clearly evidenced by the exemplary references to Manzoni (164), Ozaki ('408) and Toshiaki et al ('214) already made of record, in order to adjust the reflective element/mirror about two

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perpendicular axes (vertically and horizontally) so as to selectively view a rearview field of interest.

Furthermore, the test for obviousness is not whether the features of a secondary reference or the general knowledge available to one of ordinary skill in the art be bodily incorporated into the structure of the primary reference, nor is it that the claimed invention must be expressly suggested in anyone or all of the references, rather, the test is what the combined teaching of the references, as a whole, would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 U.S.P.Q. 871 (CCPA 1981).

Moreover, the applicant has failed to provide any factual evidence to support applicant's conclusion that it would be "nonobvious" to one of ordinary skill in the art at the time the invention was made to replace/substitute the electric mirror positioning motor unit (20) of Brechbill et al with an electric mirror positioning motor unit (tilt actuator) capable of vertically and horizontally tilting of the reflective element assembly so as to selectively view a rearview field of interest, as is well known and commonly used and employed in the mirror art. Note, by example only, the exemplary references to Manzoni (164), Ozaki ('408) and Toshiaki et al ('214) already made of record.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 37 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that

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the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification, as originally filed, does not provide any support/description for the mounting panel being secured to the mounting panel nor the tilt mechanism being secured to the tilt mechanism.

In addition, The specification, as originally filed, does not provide any support and/or description for the language “without rotation...tilt mechanism”

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 12, 13, 18, 19, 30 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Polzer et al ('778).

Polzer et al discloses a motor vehicle comprising at least one mirror system for providing a rearward view to the operator of the motor vehicle, the mirror system comprising a reflective element assembly (9, 9.9) including a reflective surface (9.9) for providing a reflection image, and a mounting panel (9) for mounting the reflective surface thereto; a mounting bracket (3) for mounting the reflective element assembly to the motor vehicle; a mirror plate (5, 5.1, 5.2) and an interlocking fastener assembly [(3.4, 3.5), (the screws of element 5)] for removably attaching the reflective element assembly to the mounting bracket comprising a first array of interlocking fasteners (3.4, 3.5) attached to and extend away from a first one of the reflective element

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assembly and the mounting bracket and a second array of interlocking fasteners (the screws of element 5) attached to and extending away from a second one of the reflective element assembly and the mounting bracket, and configured to interlock with the first array and to secure said first one of the reflective element assembly and the mounting bracket to the second one of the reflective element assembly and the mounting bracket without rotation of said reflective element assembly relative to the mounting bracket, wherein the second array is attached to and extend away from the mounting panel/mirror plate and wherein at least one of the first array and the second array comprises a regularly-spaced plurality of fastening elements (the screws of element 5), each fastening element comprising an elongated cylindrical shaft terminating in an expanded, mushroom-shaped head. Note Fig. 2 along with the associated description thereof.

6. Claims 1, 2, 8-20 and 26-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Assinder ('255).

Assinder discloses a motor vehicle comprising at least one mirror system for providing a rearward view to the operator of the motor vehicle, the mirror system comprising a reflective element assembly (32, 34) including a reflective surface (34) for providing a reflection image, and a mounting panel (32) for mounting the reflective surface thereto; a mounting bracket (10) for mounting the reflective element assembly to the motor vehicle; a mirror plate (20) and an interlocking fastener assembly [(18, 22, 30), (16, 24)] for removably attaching the reflective element assembly to the mounting bracket comprising a first array of interlocking fasteners (16, 24) attached to and extend away from a first one of the reflective element assembly and the mounting bracket and a second array of interlocking fasteners (18, 22, 30) attached to and extending away from a second one of the reflective element assembly and the mounting bracket,

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and configured to interlock with the first array and to secure said first one of the reflective element assembly and the mounting bracket to the second one of the reflective element assembly and the mounting bracket without rotation of said reflective element assembly relative to the mounting bracket, wherein the second array is attached to and extend away from the mounting panel/mirror plate, wherein at least one of the first array and the second array comprises a regularly-spaced plurality of fastening elements (24), each fastening element comprising an elongated cylindrical shaft terminating in an expanded, mushroom-shaped head (see Fig. 1), wherein the mounting bracket further comprises a plurality of tilt actuators (26, 28) for vertically and horizontally tilting the reflective element assembly in order to adjust a rearward field of vision provided thereby and comprises a mounting/base plate (20) pivotally attached thereto and having the first array (16, 24) attached thereto. Note figures 1-5 along with the associated description thereof.

7. Claims 1, 12, 13, 16, 19, 30, 31 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Brechbill et al ('872).

Brechbill et al discloses a motor vehicle comprising at least one mirror system for providing a rearward view to the operator of the motor vehicle, the mirror system comprising a reflective element assembly (13, 26) including a reflective surface (13) for providing a reflection image, and a mounting panel (26) for mounting the reflective surface thereto; a mounting bracket (25) for mounting the reflective element assembly to the motor vehicle; a mirror plate (29) and an interlocking fastener assembly (22, 24) for removably attaching the reflective element assembly to the mounting bracket comprising a first array of interlocking fasteners (22) attached to and extend away from a first one of the reflective element assembly and the mounting bracket

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and a second array of interlocking fasteners (24) attached to and extending away from a second one of the reflective element assembly and the mounting bracket, and configured to interlock with the first array and to secure said first one of the reflective element assembly and the mounting bracket to the second one of the reflective element assembly and the mounting bracket without rotation of said reflective element assembly relative to the mounting bracket, wherein the second array is attached to and extend away from the mounting panel/mirror plate, wherein the mounting bracket further comprises a motor unit (20) which comprises a mounting/base plate (29) pivotally attached thereto and having the first array (22) attached thereto. Note figures 1-4 along with the associated description thereof.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3-5 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Assinder ('255).

Assinder discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the mounting panel comprises a synthetic resin, a thermoplastic material or gas-injected plastic material having a plurality of microscopic voids.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify plastic material of the mounting panel of Assinder to include a synthetic resin, a thermoplastic material or gas-injected plastic material having a plurality of microscopic voids, as is well known in the art, since it has been held to be within the general skill of a worker

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to select a known material on the basis of its suitability for the intended use and purpose of obtaining a degree of resiliency. Note In re Leskin, 125 USPQ 416.

10. Claims 2-5, 8-11, 14, 15, 19-23, 26-29, 32, 33 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brechbill et al ('872).

Brechbill et al discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the motor unit comprises a tilt actuator for vertically and horizontally tilting the reflective element assembly in order to adjust a rearward field of vision.

It is well known to use motor units including a tilt actuator for vertically and horizontally tilting of a reflective element assembly in the same field of endeavor for the purpose for the purpose of providing an adjustment of a rearward field of view.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the motor unit (20) of Brechbill et al to include a tilt actuator for vertically and horizontally tilting the reflective element assembly, as is commonly used and employed in the mirror art, in order to adjust a rearward field of view.

As to the limitations of claims 2-5 and 20-23, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify to mounting panel of Brechbill et al to include a plastic material of a synthetic resin, a thermoplastic material or gas-injected plastic material having a plurality of microscopic voids, as is well known in the art, in order to provide a light weight mounting panel, since it has been held to be within the general skill of a worker to select a known material on the basis of its suitability for the intended use and purpose of obtaining a degree of resiliency. Note In re Leskin, 125 USPQ 416.

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11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

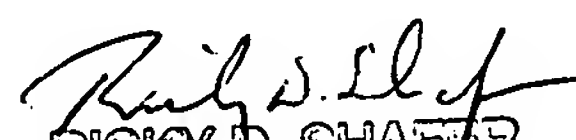
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDS
April 29, 2007


RICKY D. SHAFER
PATENT EXAMINER
ART UNIT 2872